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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,983	12/29/2000	Tatsuhiko Ando	FUJZ 18.136	9037

26304 7590 07/28/2004

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EXAMINER

PIZARRO, RICARDO M

ART UNIT PAPER NUMBER

2661

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/751,983

Applicant(s)

ANDO ET AL.

Examiner

Ricardo M. Pizarro

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2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonneau.

US patent No. 6,671,258 (Bonneau) discloses Dynamic buffering system comprising:

An ATM switch (ATM switch 13 in fig. 1) provided in a network where a non-ATM traffic and an ATM traffic coexist (IP and ATM traffic, col 16 line 64) comprising a line interface (line interfaces are line cards 11 in Fig. 1 and Fig. 2), and a call processor (Queuing points QP in switch 13 and/or in interfaces 11 wherein packets are queued in a memory or buffer for subsequent processing by the device, at each QP a buffer management system is provided, col 8 lines 31-37), the line interface having determination means for determining according to a received ATM cell which traffic the cell belongs to (QMM 24 in line interface 11 decides whether to store or discard a given packet and associates each packet with the appropriate logical queue, col 8 lines 46-54 and 62-67, col 9 lines 1-7), queuing means for queuing the cell classified based on a determination result of the determination means (multiple sets of logical queues 15 for each service in interface 11 of Fig. 2, col 8 lines 49-51), and read means for reading the cell from the queuing means at read intervals based on bandwidth allocation rates of both traffics preset by the call processor (Arbiters 22 in QP system 10 schedule according to a selected service scheduling scheme, col 9 lines 7-10), as in claim 1; wherein the read means

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read, in absence of one of the two traffics, the cell of the other traffic ( when a queue is being serviced by one of the arbiters 22 their corresponding memory block is freed, col 9 lines 11-12) as in claim 2.

Bonneau did not specifically disclose said non-ATM traffic being MPLS, as in claim 1.

*But/however*  
Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the system disclosed by Bonneau is capable of carrying another traffic rather than ATM such as IP flows like TCP and therefore one of the quality of services that could be used for this IP traffic could have been a Multi protocol label Switching system ( col 16 line 64, col lines 43-47) with the motivation of obtaining a system that addresses the allocation of buffer space of different traffic flows and that minimizes processing requirements upon packet arrival.

### ***Allowable Subject Matter***

3. Claims 3-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

### ***Conclusion***

4. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

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(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington. VA., Sixth Floor (Receptionist).

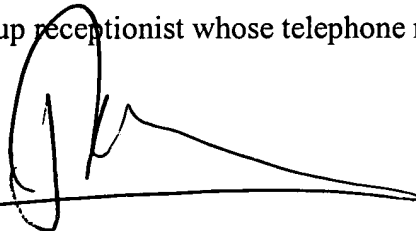
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

7/24/2004

*Ricardo M. Pizarro*

A handwritten signature in black ink, appearing to be "Ricardo M. Pizarro", written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping tail.